

3106 *Adrian L. Pauline F. Vandrey*  
Route 2, Box 245  
Forest Grove, Or

3106

# STATUS OF APPLICATION

Change in point of diversion  
Date filed 8-5-74  
Date of hearing 5-4-77  
Place of hearing Hillsboro  
Date of order 6-13-79 Vol. 32 page 195  
Date for application of water 10-1-80  
Proof mailed MAR 16 2000  
Proof received MAR 08 2001  
Certificate issued MAR 08 2001 Vol. 76804 page 76805

# DESCRIPTION OF WATER RIGHT

Name of stream West Dairy Creek  
Trib. of Washington County of Washington  
Use irrigation  
Quantity of water 52 No. of acres 2  
Name of ditch   
Date of priority   
In name of   
Adjudication, Vol. 24371 page 21230  
App. No. 29854 Per. No. 24066 Cert. No. 26480  
Certificate cancelled   
Notation made on record by OK let

# FEES PAID

Date	Amount	Receipt No.
8-5-74	15.00	42363
1-17-77	60.00	43513
10-23-74	(37.14)	42363
3-24-77		
TOTAL		
Cert. Fee		
To P.O.N. 3/24/77 Paid newspaper see ch. # 1209		
FEES REFUNDED		

Date	Amount	Check No.

# REMARKS

SEE ALSO T# 3107 & 8

C# 26480 includes stored water from Res under C# 26477 (R# 29603); also natural from from W. Dairy Cr.  
Card for C NOV 20 1981

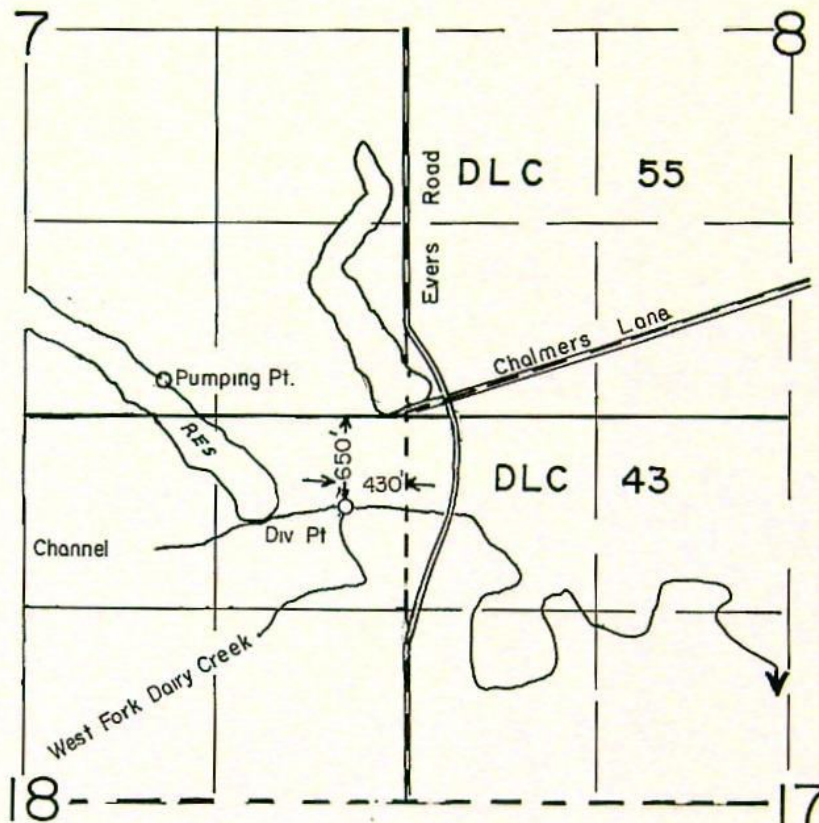
INDEX CARDS:	Entered	Checked
Name	lcj	
Stream	lcj	
Pl. of Div.	lcj	
Calendar		
CHECKED TO RECORD:		
Tap & Box		
Decree-Grant		
Decree-Use		
Cert. of Appl.	JWC	lcj
Per. Policy	JWC	
Chaindex		
Cross Ref.		
Power Claim	slm	
Abstracts		



Vandehy v Wheeler 13 Or App 25



T.1N.,R.3W.,W.M.



SCALE: 1"= 1320'

**FINAL PROOF SURVEY**  
**UNDER**

TRANSFERS NO. 3106- 3107- 3108

Application No. .... Permit No. ....  
**IN NAME OF**

ADRIAN L & PAULINE VANDEHEY  
LOUIS SPIERING, VANDEHEY FARMS- RON TANKERSLEY

Surveyed JUNE 7... 1989., by J.M. WARREN.....



STATE OF OREGON  
COUNTY OF WASHINGTON  
**CERTIFICATE OF WATER RIGHT**

**This Is to Certify,** That ADRIAN L. and PAULINA E. VANDEHEY

of Route 2, Box 245, Forest Grove, State of Oregon, has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of W. Dairy Creek & reservoir const. under Appl. No. R-29603, Per. No. R-1834 a tributary of Tualatin River for the purpose of primary irrigation of 24.4 acres and supplemental irrigation of 23.3 acres,

under Permit No. 24066 of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from March 23, 1955,

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 0.31 cubic foot per second from Creek and 22.08 acre feet stored water from Reservoir,

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 7, Township 1 North, Range 3 West, W.M. and SW $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 13, Township 1 North, Range 4 West, W.M.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-eightieth of one cubic foot per second per acre, or its equivalent for each acre irrigated from direct flow and shall be further limited to a diversion of not to exceed 2 $\frac{1}{2}$  acre feet per acre for each acre irrigated during the irrigation season of each year from direct flow and storage from reservoir constructed under Permit No. R-1834 and shall be still further limited to the appropriation of stored water only on lands described as supplemental,

and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

Supplemental irrigation

7.0 acres NW $\frac{1}{4}$  SE $\frac{1}{4}$

21.3 acres SW $\frac{1}{4}$  SE $\frac{1}{4}$

Section 7

Township 1 North, Range 3 West, W.M.

Primary irrigation

7.2 acres NE $\frac{1}{4}$  NE $\frac{1}{4}$

17.2 acres NW $\frac{1}{4}$  NE $\frac{1}{4}$

Section 18

Township 1 North, Range 3 West, W.M.

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

WITNESS the signature of the State Engineer, affixed

this date.

JANUARY 6 1960

LEWIS A. STANLEY

State Engineer



## STATE OF OREGON

COUNTY OF WASHINGTON

## CERTIFICATE OF WATER RIGHT

**This Is to Certify, That** ADRIAN VANDHEY, LOUIS SPIERING  
and EDWARD VANDERZANDEN

of Route 2, Forest Grove, State of Oregon, has made proof  
to the satisfaction of the STATE ENGINEER of Oregon, of a right to store the waters of  
West Dairy Creek, tributary of Tualatin River, appropriated under Application  
No. 29745, Permit No. 24064 and Application No. 29854, Permit No. 24066 and  
Application No. 29785, Permit No. 24065,

for the purposes of  
irrigation,

under Reservoir Permit No. R-1834 of the State Engineer, and that said right to store said  
waters has been perfected in accordance with the laws of Oregon; that the priority of the right  
hereby confirmed dates from December 8, 1954,

that the amount of water entitled to be stored each year under such right, for the purposes afore-  
said, shall not exceed 69 acre feet.

The reservoir is located in SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 7; NE $\frac{1}{4}$  NE $\frac{1}{4}$  & NW $\frac{1}{4}$  NE $\frac{1}{4}$ , both as proj-  
ected in Arthur DLC #43, Section 18; Township 1 North, Range 3 West, W.M.

WITNESS the signature of the State Engineer, affixed  
this date. JANUARY 6 1959

.....LEWIS A. STANLEY.....  
State Engineer

Recorded in State Record of Water Right Certificates, Volume 18, page 26477

T# 3106, 7 & 8



STATE OF OREGON  
COUNTY OF WASHINGTON  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

ADRIAN L. AND PAULINE E. VANDEHEY  
ROUTE 2, BOX 245  
FOREST GROVE, OREGON 97116

confirms the right to use the waters of WEST DAIRY CREEK, a tributary of DAIRY CREEK, for IRRIGATION OF 28.3 ACRES.

This right was perfected under Permit 21230. The date of priority is DECEMBER 28, 1949. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.30 CUBIC FOOT PER SECOND (IF AVAILABLE AT THE ORIGINAL POINT OF DIVERSION DESCRIBED AS BEING WITHIN THE SW 1/4 NE 1/4, SECTION 13, TOWNSHIP 1 NORTH, RANGE 4 WEST, W.M.), or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

NE 1/4 NE 1/4, SECTION 18, TOWNSHIP 1 NORTH, RANGE 3 WEST, W.M.; 650 FEET SOUTH AND 430 FEET WEST FROM THE NE CORNER OF SECTION 18.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2 1/2 acre-feet per acre for each acre irrigated during the irrigation season of each year.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use to which this right is appurtenant is as follows:

NW 1/4 SE 1/4 7.0 ACRES  
SW 1/4 SE 1/4 21.3 ACRES  
SECTION 7  
TOWNSHIP 1 NORTH, RANGE 3 WEST, W. M.

The water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water in channel G-D (Figure 1), Special Order records of the Water Resources Director entered June 13, 1979, in Volume 32, Page 197, flowing into the lake in said channel and for measuring the flow of water in said channel G-D flowing out of said lake.

The type and plans of the headgate and measuring device must be approved by the Department and shall be installed under the general supervision of the Department.

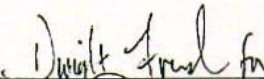
This certificate is issued to confirm a change in POINT OF DIVERSION approved by an order of the Water Resources Director entered JUNE 13, 1979, and supersedes Certificate 23463, State Record of Water Right Certificates.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.



The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources Director, affixed MARCH 8, 2001.

  
\_\_\_\_\_  
Paul R. Cleary

Recorded in State Record of Water Right Certificates numbered 76804.



STATE OF OREGON  
COUNTY OF WASHINGTON  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

ADRIAN L. AND PAULINE E. VANDEHEY  
ROUTE 2, BOX 245  
FOREST GROVE, OREGON 97116

confirms the right to use the waters of WEST DAIRY CREEK AND RESERVOIR CONSTRUCTED UNDER PERMIT R-1834, a tributary of DAIRY CREEK, for PRIMARY IRRIGATION OF 24.4 ACRES AND SUPPLEMENTAL IRRIGATION OF 28.3 ACRES.

This right was perfected under Permit 24066. The date of priority is MARCH 28, 1955. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.31 CUBIC FOOT PER SECOND FROM CREEK AND 22.08 ACRE-FEET STORED WATER FROM RESERVOIR (IF AVAILABLE AT THE ORIGINAL POINTS OF DIVERSION DESCRIBED AS BEING WITHIN THE SW 1/4 NE 1/4, SECTION 13, TOWNSHIP 1 NORTH, RANGE 4 WEST, W.M. AND SW 1/4 SE 1/4, SECTION 7, TOWNSHIP 1 NORTH, RANGE 3 WEST, W.M.), or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

NE 1/4 NE 1/4, SECTION 18, TOWNSHIP 1 NORTH, RANGE 3 WEST, W.M.; 650 FEET SOUTH AND 430 FEET WEST FROM THE NE CORNER OF SECTION 18.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2 1/2 acre-feet per acre for each acre irrigated during the irrigation season of each year from direct flow and storage from reservoir constructed under Permit No. R-1834 and shall be further limited to the appropriation of stored water only on lands described as supplemental. This right is limited to any deficiency in the available supply of any prior right existing for the same land.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use to which this right is appurtenant is as follows:

PRIMARY IRRIGATION

NE 1/4 NE 1/4	7.2 ACRES
NW 1/4 NE 1/4	17.2 ACRES
SECTION 18	

SUPPLEMENTAL IRRIGATION

NW 1/4 SE 1/4	7.0 ACRES
SW 1/4 SE 1/4	21.3 ACRES
SECTION 7	
TOWNSHIP 1 NORTH, RANGE 3 WEST, W. M.	

The water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water in channel G-D (Figure 1), Special Order records of the Water Resources Director entered June 13, 1979, in Volume 32, Page 197, flowing into the lake in said channel and for measuring the flow of water in said channel G-D flowing out of said lake.



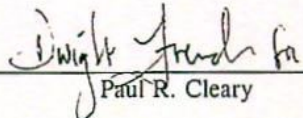
The type and plans of the headgate and measuring device must be approved by the Department and shall be installed under the general supervision of the Department.

This certificate is issued to confirm a change in POINT OF DIVERSION approved by an order of the Water Resources Director entered JUNE 13, 1979, and supersedes Certificate 26480, State Record of Water Right Certificates.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources Director, affixed MARCH 8, 2001.

  
\_\_\_\_\_  
Paul R. Cleary

Recorded in State Record of Water Right Certificates numbered 76805.



STATE OF OREGON  
COUNTY OF WASHINGTON  
**CERTIFICATE OF WATER RIGHT**

**This Is to Certify, That** A. L. & P. E. VANDEHEY

of Route 2, Box 245, Forest Grove, State of Oregon, has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of West Dairy Creek

a tributary of Dairy Creek for the purpose of irrigation

under Permit No. 21230 of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from December 28, 1949

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 0.30 cubic foot per second

or its equivalent in case of rotation, measured at the point of diversion from the stream.

The point of diversion is located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ , Section 13, Township 1 North, Range 4 West, W.M.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-eightieth of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2 $\frac{1}{2}$  acre feet per acre for each acre irrigated during the irrigation season of each year,

and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

7.0 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$   
21.3 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$   
Section 7  
Township 1 North, Range 3 West, W.M.

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

WITNESS the signature of the State Engineer, affixed

this 20th day of November, 1957.

LEWIS A. STANLEY

State Engineer

Recorded in State Record of Water Right Certificates, Volume 16, page 23463.



STATE OF OREGON

COUNTY OF WASHINGTON

CERTIFICATE OF WATER RIGHT

This Is to Certify, That EDWARD H. VANDER ZANDEN

97116  
of Route 2, Box 246, Forest Grove, State of Oregon, has made proof  
to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of  
West Fork of Dairy Creek and an unnamed lake  
a tributary of Tualatin River for the purpose of

irrigation  
under Permit No. 19231 of the State Engineer, and that said right to the use of said waters  
has been perfected in accordance with the laws of Oregon; that the priority of the right hereby  
confirmed dates from December 28, 1949,

that the amount of water to which such right is entitled and hereby confirmed, for the purposes  
aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed  
0.87 cubic foot per second

or its equivalent in case of rotation, measured at the point of diversion from the stream.  
The point of diversion is located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ , Section 7, Township 1 North, Range 3  
West, W.M. & SW $\frac{1}{4}$ NE $\frac{1}{4}$ , Section 13, Township 1 North, Range 4 West, W.M.

The amount of water used for irrigation, together with the amount secured under any other  
right existing for the same lands, shall be limited to one-eightieth of one cubic foot per second  
per acre, or its equivalent for each acre irrigated and shall be further limited  
to a diversion of not to exceed 2 $\frac{1}{2}$  acre feet per acre for each acre irrigated  
during the irrigation season of each year; water to be diverted from lake when  
available, any deficiency in the available supply to be made up by diversion  
from West Fork Dairy Creek,

and shall  
conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right hereby confirmed, and to which such right is  
appurtenant, is as follows:

12.2 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$   
5.2 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$   
27.6 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$   
26.0 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$   
19.6 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$   
Section 7  
Township 1 North, Range 3 West, W.M.

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of  
use herein described.

WITNESS the signature of the State Engineer, affixed

this 12th day of September, 197

LEWIS A. STANLEY

State Engineer

Recorded in State Record of Water Right Certificates, Volume 16, page 23018.

T-3107

T-8226



## STATE OF OREGON

COUNTY OF WASHINGTON

## CERTIFICATE OF WATER RIGHT

**This Is to Certify, That** EDWARD H. VANDERZANDEN

of Route 2, Box 246, Forest Grove, State of Oregon, has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of Reservoir constructed under Appl. No. R-29603, Per. No. R-1834 a tributary of \_\_\_\_\_ for the purpose of supplemental irrigation of 90.6 acres,

under Permit No. 24064 of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from February 11, 1955,

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 22.08 acre feet stored water only,

or its equivalent in case of rotation, measured at the point of diversion from the stream.

The point of diversion is located in the SW $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 13, Township 1 North, Range 4 West, W.M. and SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 7, Township 1 North, Range 3 West, W.M.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to a diversion of of one cubic foot per second per acre, 2 $\frac{1}{2}$  acre feet per acre or its equivalent for each acre irrigated during the irrigation season of each year,

and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

12.2 acres SW $\frac{1}{4}$  NE $\frac{1}{4}$   
5.2 acres SE $\frac{1}{4}$  NW $\frac{1}{4}$   
27.6 acres NE $\frac{1}{4}$  SW $\frac{1}{4}$   
26.0 acres NW $\frac{1}{4}$  SW $\frac{1}{4}$   
19.6 acres NW $\frac{1}{4}$  SE $\frac{1}{4}$

Section 7

Township 1 North, Range 3 West, W.M.

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

WITNESS the signature of the State Engineer, affixed  
this date.

LESLIE A. STALEY

State Engineer

Temporary  
SE. ORY. 53 p. 713



STATE OF OREGON  
COUNTY OF WASHINGTON

# CERTIFICATE OF WATER RIGHT

This Is to Certify, That LOUIS M. SPIERING,

of Route 2, Forest Grove, State of Oregon, has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of

West Fork of Dairy Creek, a tributary of Tualatin River, for the purpose of irrigation.

under Permit No. 19020 of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from October 5, 1949

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 0.75 cubic foot per second,

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the NE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 18, Township 1 North, Range 3 West, W. M.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-eightieth of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2 $\frac{1}{2}$  acre feet per acre for each acre irrigated during the irrigation season of each year,

and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

0.6 acre in SE $\frac{1}{4}$  NE $\frac{1}{4}$   
16.5 acres in NE $\frac{1}{4}$  SE $\frac{1}{4}$   
8.3 acres in NW $\frac{1}{4}$  SE $\frac{1}{4}$   
8.0 acres in SW $\frac{1}{4}$  SE $\frac{1}{4}$   
26.6 acres in SE $\frac{1}{4}$  SE $\frac{1}{4}$

Section 7

Township 1 North, Range 3 West, W. M.

Land on which water is to be used is a part of that more explicitly described by applicant as follows:

1st Tract: Beg. at an iron pin which bears N. 89° 41' E. 3564.0 feet (54.00 chs.) from the  $\frac{1}{4}$  section corner on the W. boundary of Sec. 7, T. 1 N., R. 3 W., W. M., Washington County, Oregon, and running thence N. 81° 38' E. 852.1 feet (12.91 chs.) to a stone corner; thence S. 1240.1 ft (18.79 chs.) thence S 81° 38' W 853.8 feet, thence N 0° 4' E. 1280.1 ft (18.79 chs.) to the place of beginning, containing 24 acres.

2nd Tract: Beg. at the SE cor. of Sec. 7, T. 1 N., R. 3 W., W. M., in Washington County, Oregon, and running thence N 89° 26' W. 25.56 chs (1687.0 ft) thence N 0° 04' E 20.96 chs (1383.4 ft) to the SW cor. of the rainwater tract; thence N 81° 38' E 12.91 chs. (852.1 ft) thence S 0.035 chs (2.31 ft) to the SW cor. of the Frank L. Beamis tract; thence N. 81° 38' E. 12.886 chs. 850.5 ft to the SE cor. of said Frank L. Beamis tract; thence S. 24.923 chs (1614.92 ft) to the place of beg., containing 58.60 acres, more or less.



## STATE OF OREGON

COUNTY OF WASHINGTON

## CERTIFICATE OF WATER RIGHT

This Is to Certify, That LOUIS M. SPIERING

of Route 2, Forest Grove, State of Oregon, has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of reservoir constructed under Appl. No. R-29603, Per. No. R-1834 a tributary of Tualatin River for the purpose of supplemental irrigation of 60.0 acres and primary irrigation of 8.9 acres,

under Permit No. 24065 of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from March 10, 1955,

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 22.08 acre feet stored water only,

or its equivalent in case of rotation, measured at the point of diversion from the stream.

The point of diversion is located in the SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 7, Township 1 North, Range 3 West, W.M. and SW $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 13, Township 1 North, Range 4 West, W.M.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to a diversion of ~~of one cubic foot per second~~ ~~22.08~~ 2 $\frac{1}{2}$  acre feet per acre or its equivalent for each acre irrigated during the irrigation season of each year,

and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

Primary irrigation2.3 acres NW $\frac{1}{4}$  SE $\frac{1}{4}$ 2.4 acres SW $\frac{1}{4}$  SE $\frac{1}{4}$ 4.2 acres SE $\frac{1}{4}$  SE $\frac{1}{4}$ 

Section 7

Township 1 North, Range 3 West, W.M.

Supplemental irrigation0.6 acres SE $\frac{1}{4}$  NE $\frac{1}{4}$ 16.5 acres NE $\frac{1}{4}$  SE $\frac{1}{4}$ 8.3 acres NW $\frac{1}{4}$  SE $\frac{1}{4}$ 8.0 acres SW $\frac{1}{4}$  SE $\frac{1}{4}$ 26.6 acres SE $\frac{1}{4}$  SE $\frac{1}{4}$ 

Section 7

Township 1 North, Range 3 West, W.M.

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

WITNESS the signature of the State Engineer, affixed  
this date.

LEWIS A. STANLEY

State Engineer



BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

WASHINGTON COUNTY

IN THE MATTER OF THE APPLICATION OF )  
ADRIAN L. & PAULINE E. VANDEHEY FOR )  
APPROVAL OF A CHANGE IN POINT OF )  
DIVERSION OF WATER )  
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STATEMENT, FINDINGS  
CONCLUSIONS AND  
ORDER APPROVING  
TRANSFER NO. 3106

On August 5, 1974, an application was filed in the office of the Water Resources Director by Adrian L. and Pauline E. Vandehey for approval of a change in point of diversion from West Dairy Creek, pursuant to the provisions of ORS 540.510 to 540.530, for the water rights described by the certificates recorded at page 23463, Volume 16, and pages 26477 and 26480, Volume 18, State Record of Water Right Certificates.

Certificate 23463 describes a right to use not to exceed 0.30 cubic foot per second of water from West Dairy Creek for irrigation of 7.0 acres in NW $\frac{1}{4}$  SE $\frac{1}{4}$  and 21.3 acres in SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 7, Township 1 North, Range 3 West, W.M., with a date of priority of December 28, 1949.

Certificate 26477 describes a right which includes storage of 22.08 acre feet of water from West Dairy Creek in a reservoir located within the SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 7 and N $\frac{1}{2}$  NE $\frac{1}{4}$  of Section 18, Township 1 North, Range 3 West, W.M., with a date of priority of December 8, 1954, for irrigation purposes.

Certificate 26480 describes a right to use not to exceed 0.31 cubic foot per second of water from West Dairy Creek and from said stored water for irrigation of 7.2 acres in NE $\frac{1}{4}$  NE $\frac{1}{4}$  and 17.2 acres in NW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 18, Township 1 North, Range 3 West, W.M.; and to use from said stored water only for supplemental irrigation of 7.0 acres in NW $\frac{1}{4}$  SE $\frac{1}{4}$  and 21.3 acres in SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 7, Township 1 North, Range 3 West, W.M., all with a date of priority of March 28, 1955.

The point of diversion of record from West Dairy Creek for said rights is located 10 feet North and 1660 feet West from the East Quarter Corner of Section 13,



being within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 13, Township 1 North, Range 4 West, W.M. However, the point actually used is located 1160 feet North and 370 feet West from the Center of Section 13, being within the SE $\frac{1}{4}$  NW $\frac{1}{4}$  of said Section 13.

The applicants herein, owners of the lands above described, propose to change the point of diversion, without loss of priority, to a point located 650 feet South and 530 feet West from the Northeast Corner of Section 18, being within the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 18, Township 1 North, Range 3 West, W.M.

Notice of the application, pursuant to ORS 540.520(2), was published in the Hillsboro Argus, a newspaper printed and having general circulation in Washington County, Oregon, for a period of three weeks in the issues of February 24, March 3 and 10, 1977.

Objections against approval of said application were filed by Clarence Van Dyke, Joseph A. Evers, Eugene E. Evers, and Gervase Jansen, in the office of the Water Resources Director on April 22, 1977.

Pursuant to notice, the matter of said transfer application No. 3106 and the objections against it were brought to hearing in Conference Room 409 of the Washington County Administrative Building, in Hillsboro, Oregon, on May 4, 1977, before Mr. James W. Carver, Jr. The applicants were represented by their attorney, Mr. Thomas J. Moore, Attorney at Law, Hillsboro, Oregon. The objectors were represented by their attorney, Mr. J. W. Darr, Attorney at Law, Hillsboro, Oregon.

By agreement of the parties, the hearing on this matter was held concurrently with the hearings on two other matters involving the same issues.

West Fork Dairy Creek is a perennial stream which forms on the East slope of the Coast Range Mountains, approximately 18 miles North and West of Forest Grove, Oregon, and flows generally South for a distance of approximately 15 miles, crossing under the Sunset Highway and under the Wilson River Highway, to where it reaches the location of the authorized point of diversion for the subject water rights, point "B" on Figure 1. There the historic channel of West Fork Dairy Creek continues South for







a few hundred feet, then turns East, generally following the course B-C-D, crossing under the Nehalem Highway, and continuing easterly from point "D" for approximately another 1½ miles to where it joins the channel of East Fork Dairy Creek. The channel of West Fork Dairy Creek, from point B to where it joins the channel of East Fork Dairy Creek, flows through an essentially flat area with a down-gradient to the East of less than 10 feet per mile.

The protestants and others have certain rights of record to appropriate waters of West Fork Dairy Creek by diversion of water, with various dates of priority, at the points designated "1", "2", "3", "4" and "5" on Figure 1. Diversion point "1" is used by protestant Clarence Van Dyke; diversion point "2" is used by protestants Eugene E. Evers and Joseph A. Evers; and diversion point "5" is used by protestant Gervase Jansen.

From the vicinity of the applicant's authorized point of diversion, point B, a second channel extends easterly from point G running generally parallel to and North of the aforesaid channel of West Fork Dairy Creek and joins the first channel at point D, near the Northwest Corner of Section 19, Township 1 North, Range 3 West, W.M. The dam forming the applicant's storage reservoir, Dam No. 2 on Figure 1, is located within the second channel, less than ¼ mile above point D.

#### EVIDENTIARY RULINGS

(a) Applicant holds that findings of fact made by the Circuit Court of the State of Oregon for the County of Washington, in Case No. 34-330 are binding on the Water Resources Director in the matter here before him. There is testimony and evidence now before the Water Resources Director that was not before the Court. While the findings of the Court may be persuasive, they are not binding.

(b) Protestants offer, as their exhibit "B", an "agreement between Van Dyke and Evers and Louis Spiering and Adrain Vandehey" for construction of a dam. Applicant objects on the grounds the document is not material to this hearing. Applicant's objection is overruled; and testimony in reference to Protestant's exhibit "B" is



included in the record.

#### FINDINGS OF FACT

The land surface area along the second channel, G-D, is at a slightly lower elevation than the land surface area along the channel B-C. Historically, at times of flood flow, water would over-top the banks of channel B-C, traveling overland to the North and then flow easterly through a series of swales and eroded channels toward the general vicinity of point D. One of the witnesses testified that in years past, prior to the reconstruction of the Nehalem Highway, a continuous bridge or trestle extended across the low area traversed by the three channels G-D, B-C, and Drainage District No. 7 ditch, and that at times of high flood flows, the entire said low area traversed by the Nehalem Highway was covered with water. During the summer of 1950 or 1951, a diesel powered Lima backhoe with a 3/4 yard bucket was brought in and used to construct a continuous, improved channel extending easterly from point G, passing under the Nehalem Highway, and continuing toward point D reaching to, or almost to, the applicant's reservoir.

The applicants testified that as far back as the early 1930's, an eroded flood water channel existed between points B and G; that the conditions of channel B-C-D and B-G-D were such that during periods of high flow, water would follow both channels; but beginning in the spring or early summer of each year, as the flows decreased, water would cease flowing from B to G and the entire summer flow would follow the channel B-C-D.

Testimony was in agreement that in subsequent years, upland owners along the channel of the West Fork Dairy Creek, North of point B, have done substantial work in clearing brush from along the channel and cleaning the channel to maintain or enhance its ability to carry water. Testimony was further in agreement that such channel maintenance work has not been carried out on that stretch of the channel of West Fork Dairy Creek from point B to point C.

The water carrying capacity of channel B-G changed over the years as a result



of erosion due to increased velocities resulting from the improvement of channel G-D, and the works of man, so that it became necessary to control the flow of water between points B and G so the summer flow would continue to follow the course B-C-D.

In 1954, an agreement was entered into between Mike and Rose Yunker, first parties; A. H. Evers, Clarence and Eunice M. Van Dyke, Albert J. and Mary Evers, and William J. and Louise Marie Vanderzanden, as second parties; and Edward and Madeline Vanderzanden, third parties, for construction and maintenance of a dam at the location designated on Figure 1 as "Dam No. 1". The first party to the agreement was the owner of the land where the said dam is located. The second parties to the agreement were to pay the cost of the construction of the dam to be constructed in accord with specifications developed by the Soil Conservation Service, United States Department of Agriculture; and the third party was to pay the costs of a headgate or a water control gate to be installed in the dam. The agreement provided that the headgate or water control gate to be installed in the dam was to be under the control of the watermaster.

Testimony established that a concrete dam with provisions for wood flash boards, was constructed under the terms of the agreement. The dam was constructed to a sufficient height to force the flow of West Fork Dairy Creek, during the irrigation season, down channel B-C-D and the headgate provided in the dam was operated by the watermaster to pass down channel B-G-D only that amount of water necessary to satisfy the entitlements of the applicant's and/or their successors in interest, under their water rights of record. During the non-irrigation season, the flash boards were removed to allow the flood flows of West Fork Dairy Creek to follow the course B-G-D.

Testimony also developed that prior to construction of the said concrete dam, sand bags had been placed in channel B-G to force the flow of West Fork Dairy Creek down channel B-C-D.

Faster moving water, in improved channel sections, has the ability to pick up heavier silt loads which remain in suspension until the water reaches a slower moving



section where the silt settles out of the water and is deposited in the bottom of the channel.

It appears from testimony that water moving down the improved channel of West Fork Dairy Creek above point B would at times carry an appreciable silt load and that upon the water entering channel section B-C, the velocity of the stream was slowed by the brush-filled, winding channel, allowing the silt to settle out of the water, being deposited in the stream channel. Testimony showed that in the upper reaches of channel B-C, a silt accumulation in excess of 18 inches in depth had accumulated in the bottom of the channel. Testimony also established that the concrete dam (Dam No. 1) in channel B-G is no longer of adequate height to force the waters down channel B-C and that in the years 1974, 1975, and 1976, earth fill has been placed in channel B-G near Dam No. 1, to a height of at least 18 inches above the crest of the concrete dam, in order to force water down channel B-C-D.

Testimony indicates that sometime subsequent to the improvement of channel G-D by operation of a backhoe during the early 1950's, a portion of channel B-G, extending upstream from point G toward Dam No. 1, was straightened and improved, as evidenced by a berm of excavated materials along one side of the subject portion of the channel. Who was responsible for the work, or to what extent the channel was improved by such work, was not established by the testimony.

Under present conditions, if all man made obstruction were removed from channel B-G, the major portion of the winter flood flows and all of the summer flow would follow the course B-G-D.

The question before the Water Resources Director in this matter, as posed by ORS 540.530(1), is whether the proposed change in point of diversion of water under the provisions of the applicant's water rights described above, can be effected without injury to other existing water rights.

It is clear from the testimony that channel B-G-D has been, historically, a natural floodwater channel of West Fork Dairy Creek. Present day conditions of the



1

channel segments, resulting from natural processes, inseparably intertwined with the works of man in farm management practices affecting the stream channels, are such that channel B-G-D has become a year-round channel of West Fork Dairy Creek.

The proposed change in point of diversion from point B to Dam No. 2 can be effected without injury to the rights with points of diversion on channel B-C-D, if the applicant is required to maintain suitable measuring devices to measure the water flowing into the reservoir in the channel G-D and the water flowing out of the reservoir at Dam No. 2, so that distribution of the available flow of West Fork Dairy Creek can be made by the watermaster in accord with the relative entitlements to its use.

The protestants, in their testimony at the hearing, expressed a fear that approval of the applicant's proposed change in point of diversion from point B to Dam No. 2 would, somehow, prevent them from continuing to maintain a dam in channel B-G to force waters of West Fork Dairy Creek, to which they are entitled under the provisions of their water rights, to flow down channel B-C-D to their respective points of diversion.

The decision of the Water Resources Director in this matter will not change the authority or the obligation of the protestants to maintain a dam or other control works in channel B-G, or to carry out such channel maintenance and improvement practices in channel B-C-D so that such control works would no longer be necessary to obtain their desired flow of water down channel B-C-D.

#### ULTIMATE FINDINGS OF FACT

Present day conditions of the channel segments of West Fork Dairy Creek are such that if the natural flows of West Fork Dairy Creek, other than that portion of such flows necessary to satisfy the needs of water rights with points of diversion on channel B-C-D, in accord with their relative entitlements to water, were allowed to pass down channel B-G-D there would not be a detrimental effect on rights with diversion points on any segment of the aforesaid historic channel of West Fork Dairy Creek.



The proposed change in point of diversion, from point B to Dam No. 2, can be effected without injury to other water rights if the applicant installs and maintains adequate measuring devices immediately above and below his reservoir impoundment on channel G-D so the amount of water diverted from the flows of West Fork Dairy Creek, during the irrigation season, to satisfy the needs of his rights under their relative dates of priority, can be determined accurately at all times.

#### CONCLUSION

The applicant's proposed change in point of diversion can be effected without injury to other water rights. Therefore, the applicant's water right transfer application No. 3106 should be approved.

NOW, THEREFORE, it hereby is ORDERED that the requested change in point of diversion, as described herein, without loss of priority, is approved.

It is FURTHER ORDERED that the quantity of water diverted at the new point of diversion shall not exceed the quantity of water available at the original point of diversion under the subject rights.

It is FURTHER ORDERED that the following provisions shall be carried out prior to the diverting of water at the new point of diversion as herein confirmed:

That the applicants shall install and maintain in operable condition, in line flow meters, weirs, or other suitable devices for measuring the flow of water in channel G-D (Figure 1, above) flowing into the applicant's reservoir in said channel, and for measuring the flow of water in said channel G-D flowing out of said reservoir.

That the type and plans of the measuring device be approved by the watermaster before the beginning of construction work and that the weir or measuring device be installed under the general supervision of said watermaster.

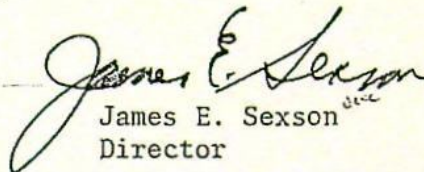
It is FURTHER ORDERED that the construction work shall be completed and the change in point of diversion of water made on or before October 1, 1980.

It is FURTHER ORDERED that upon proof satisfactory to the Water Resources Director of completion of works and beneficial use of water to the extent intended under the provisions of this order, the certificates of water right recorded at page



23463, Volume 16, and at page 26480, Volume 18, State Record of Water Right Certificates, be canceled; and in lieu thereof new confirming certificates of water right be issued to the applicants herein.

Dated at Salem, Oregon this 13th day of June, 1979.

  
James E. Sexson  
Director

NOTICE: You are entitled to judicial review of this Order. Judicial review may be obtained by filing a petition for review within sixty days from the service of this Order. Judicial review is pursuant to the provisions of ORS Chapter 183.



NOTICE OF WATER RIGHT TRANSFER  
APPLICATION NO. 3106

Notice is hereby given that Adrian L. and Pauline E. Vandehey have filed an application in the office of the Water Resources Director for approval of a change in point of diversion of water from West Dairy Creek for the water rights described by the certificates recorded at page 23463, Vol. 16, and Pages 26477 and 26480, Vol. 18, State Record of Water Right Certificates:

Certificate 23463 describes a right to use not to exceed 0.30 c.f.s. from West Dairy Creek for irrigation of 7.0 acres in NW $\frac{1}{4}$  SE $\frac{1}{4}$  and 21.3 acres in SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Sec. 7, T. 1 N., R. 3 W., W.M., with a date of priority of Dec. 28, 1949.

Certificate 26477 describes a right which includes storage of 22.08 acre feet of water from West Dairy Creek in a reservoir located within SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Sec. 7 and N $\frac{1}{2}$  NE $\frac{1}{4}$  of Sec. 18, T. 1 N., R. 3 W., W.M., with a priority date of Dec. 8, 1954, for irrigation purposes.

Certificate 26480 describes a right to use not to exceed 0.31 c.f.s. from West Dairy Creek and from said stored water for irrigation of 7.2 acres in NW $\frac{1}{4}$  NE $\frac{1}{4}$  and 17.2 acres in NW $\frac{1}{4}$  NE $\frac{1}{4}$  of Sec. 18, T. 1 N., R. 3 W., W.M.; and to use from said stored water only for supplemental irrigation of 7.0 acres in NW $\frac{1}{4}$  SE $\frac{1}{4}$  and 21.3 acres in SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Sec. 7, T. 1 N., R. 3 W., W.M., all with a date of priority of March 28, 1955.

The point of diversion of record from West Dairy Creek for said rights is located 10 ft. N. and 1660 ft. W. from the E.  $\frac{1}{4}$  corner of Sec. 13, being within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of Sec. 13, T. 1 N., R. 4 W., W.M. However, the point actually used is located 1160 ft. N. and 370 ft. W. from the center of Sec. 13, being within the SE $\frac{1}{4}$  NW $\frac{1}{4}$  of said Sec. 13.

The applicants herein, owners of the lands above described, propose to change the point of diversion, without loss of priority, to a point located 650 ft. S. and 530 ft. W. from the NE corner of Sec. 18, being within the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Sec. 18, T. 1 N., R. 3 W., W.M.

All persons interested are notified hereby that a hearing will be held at the county courthouse at Hillsboro, Oregon, on May 4, 1977, at 9:30 a.m. All objections to the proposed change, if any there are, will be heard at said time and place. Any and all objections shall be prepared in writing, one copy to be served on Adrian L. and Pauline E. Vandehey, Rt. 2, Box 245, Forest Grove, Or., and one copy filed with the Water Resources Dept., Salem, Oregon 97310, together with a \$10 filing fee, at least 10 days prior to the date set for hearing. IF NO OBJECTION IS FILED, THE APPLICATION MAY BE APPROVED BY THE WATER RESOURCES DIRECTOR WITHOUT A HEARING. Administrative rules pertaining to the filing of a protest will be furnished by the Water Resources Department upon request.

Dated at Salem, Oregon, this 11th day of February, 1977.

James E. Sexson, Director.

(Feb. 24, March 3, 10, 1977)

Affidavit of Publication

RECEIVED

MAR 14 1977

WATER RESOURCES DEPT  
SALEM, OREGO.

STATE OF OREGON, COUNTY OF WASHINGTON, ss.

I, Walter V. McKinney, being first

duly sworn, depose and say that I am the Publisher  
of the HILLSBORO ARGUS, a newspaper of general circulation as defined  
by ORS 193.010 and 193.020; printed and published at Hillsboro, in the afore-

said county and state; that the

NOTICE OF WATER RIGHT TRANSFER APPLICATION  
a printed copy of which is hereto annexed, was published in the entire issue

of said newspaper for three successive and consecutive  
weeks in the following issues:

February 24, March 3, 10, 1977

Walter V. McKinney

Subscribed and sworn to before me this 10th day

of March, 19 77.

Mary E. Davies  
Notary Public for Oregon.

[My commission expires March 2, 1979]